

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COLBY GOROG,  
JOSHUA FLINT, LOUIS ROBINSON,  
Et al, individually and on behalf  
of all others similarly situated,

Plaintiffs,

- versus -

ELON MUSK and Tesla Inc.

Case No.: 1:22-cv-05037-AKH

**DECLARATION OF SANTOS A. PEREZ, ESQ.  
In Opposition to Motion for Sanctions**









I, Santos A. Perez, Esq, do state:

1. I am an attorney at law barred since 1998 in the State of New Jersey, in good standing, having handled various complex litigation matters in state and federal courts in New Jersey, Texas, Puerto Rico, and New York.
2. I appear in this Court's docket as plaintiff's co-counsel of record since August 16, 2022 [ECF #8], Evan Spencer, Esq. having appeared as lead class counsel since the filing of the original complaint.
3. The undersigned from August 16, 2022, until the filing of the **first amended complaint** [**FAC**] on September 9, 2022 [ECF #9], substantially assisted

lead class counsel Evan Spencer, Esq., in converting the original RICO complaint into a PSLRA securities class action.

4. The undersigned exercised **extensive due diligence** prior to the drafting of the FAC from *circa* August 16, 2022 to *circa* September 9, 2022, this effort encompassing ***circa 200 hours of online research***, and the identification of **comprehensive, significant, and relevant evidence, *infra***.
5. This reliable evidence corroborated nearly every allegation in the FAC, and allegations not explicitly corroborated could be reasonably inferred from the proofs.
6. Among the exhibits were hundreds of *verified* statements by Elon Musk, in the form of “Tweets”, which received over **16 million** interactions, including likes and comments by other users - most prominently potential or actual Dogecoin investors. See FAC Exhibit U [ECF #9].

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5/3/2022	26,500	1,950	2,137	
5/17/2022	57,100	2,720	1,712	
5/25/2022	13,700	816	830	
5/26/2022	17,400	2,562	1,395	
5/27/2022	204,100	22,400	13,900	
5/31/2022	12,200	1,316	939	
5/31/2022	3,676	353	218	
6/19/2022	394,600	43,400	37,400	
	<b>TOTAL LIKES</b>	<b>TOTAL RETWEETS</b>	<b>TOTAL COMMENTS</b>	<b>TOTAL RECORDED INTERACTIONS</b>
	13,276,189	2,017,441	1,049,492	16,343,122

FAC EXHIBIT U (MUSK TWEETS)

7. As evidenced by Musk’s Dogecoin-specific statements or tweets uncovered during due diligence, which tweets **reached at least 16 million people**,

**Musk has the undivided attention of Dogecoin investors, and millions of them responded to his Dogecoin statements *affirmatively*, without regard to the statements' veracity.**

**8. After this period of due diligence, my office drafted most of the securities-based allegations in the FAC, supported by the competent proofs found.**

9. The proofs included:

- i. **Causation:** Three On-Point *Independent* Scientific Studies of Musk's Tweets and their Effect on the Dogecoin Market. [FAC ¶7, ¶10, ¶187, ¶306-325] [[FAC Exhibit B](#), [FAC Exhibit C](#), [FAC Exhibit D](#).]
- ii. **Dogecoin As a Security:** Admission that Dogecoin was *Launched* as a for-profit "*Next Big Thing*" investment contract which belies subsequent claims that Dogecoin was *intended as a* "joke". [FAC Exhibit S](#)<sup>1</sup> [FAC #148] [FAC #149].
- iii. **False Statements:** False Claims that Dogecoin was launched as a "Joke". [FAC ¶41, ¶68, ¶146, ¶147, ¶149-151, ¶174, ¶412-415]
- iv. **Misleading Statements.** Evidence which depicts the Dogecoin Foundation as a non-profit - despite the "Next Big Thing" Admission *supra*. [FAC ¶112-115, ¶391-392]

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<sup>1</sup>[https://www.reddit.com/r/dogecoin/comments/lfl5iz/true\\_value\\_an\\_open\\_letter\\_from\\_billy\\_mark\\_us/](https://www.reddit.com/r/dogecoin/comments/lfl5iz/true_value_an_open_letter_from_billy_mark_us/)

- v. **False statements *In Connection With* the “To the Moon” Scheme.** Musk’s multiple statements to send literal or “literal” Dogecoin to the literal or “literal” moon, despite his knowledge that crypto is virtual and cannot be “sent” to the moon. These *false* statements - ***which were ratified and also made by SpaceX representatives*** - were central to Musk’s scheme, and in making these “literal” statements Musk thereby *knowingly* leveraged his speech platform, his SpaceX company, and the “To the Moon” meme-based advertising campaign initiated by the founders, to successfully *artificially* inflate Dogecoin. [FAC ¶¶65, ¶81, ¶214 -229, ¶266, ¶417.]
- vi. **Insider Status Misleading Evidence:** False Statement by Musk that his *primary* assistant was not associated with the Dogecoin Foundation. [FAC ¶153]
- vii. **Insider Status Evidence:** Elon Musk’s Association with Dogecoin Developers[FAC ¶238-242]
- viii. **Scienter Evidence:** Statements which included the statement by Musk to Dogecoin founder Billy Markus that “*Whoever Control Memes, Controls The Universe*”. [FAC ¶393]
- ix. **Cryptocurrency Financial Novelty Evidence:** “Dogeparty” - a process used by Dogecoin Developers to control supply and demand of Dogecoin, and therefore its market price [FAC ¶¶67-70, ¶77-79, ¶85-89, ¶93, ¶95-98, ¶105-109]

[INTENTIONALLY LEFT BLANK]

## THE THREE ON-POINT, INDEPENDENT, SCIENTIFIC STUDIES OF MUSK STATEMENTS (TWEETS) AND THEIR EFFECT ON THE DOGECOIN MARKET

10. *Three* on-point, *independent* scientific studies uncovered during due diligence by my office specifically causally related Musk's electronic statements (tweets), with Dogecoin price fluctuations:

<p style="text-align: center;">Case 1:22-cv-05037-AKH Document 9-1 Filed 09/06/22 Page 1 of 28</p> <div style="text-align: center;">         Blockchain Research Lab     </div> <p style="text-align: center;">BRL Working Paper Series No. 16</p> <h3 style="text-align: center;">How Elon Musk's Twitter activity moves cryptocurrency markets</h3> <p style="text-align: center;">Lennart Ante <sup>1,*</sup></p> <p style="text-align: center;"><sup>1</sup> Blockchain Research Lab, Max-Brauer-Allee 46, 22765 Hamburg, Germany</p> <p style="text-align: center;">* Correspondence: ante@blockchainresearchlab.org</p> <p style="text-align: center;">Revised version: 12 Jan 2022 (Original version: 03 Feb 2021)</p> <p><b>Abstract:</b> Elon Musk, one of the richest individuals in the world, is considered a technological visionary and has a social network of over 69 million followers on social media platform Twitter. He regularly uses his social media presence to</p> <p style="text-align: center;"><a href="#">FAC Exhibit B</a></p>	<p style="text-align: center;">Case 1:22-cv-05037-AKH Document 9-2 Filed 09/06/22 Page 1 of 11</p> <div style="display: flex; justify-content: space-between;"> <div>  </div> <div>  </div> </div> <p style="text-align: center;">Article</p> <h3 style="text-align: center;">Down with the #Dogefather: Evidence of a Cryptocurrency Responding in Real Time to a Crypto-Tastemaker</h3> <p style="text-align: center;">Michael Cary </p> <p style="text-align: center;"><small>Division of Resource Economics and Management, West Virginia University, Morgantown, WV 26506, USA; mcary@mix.wvu.edu</small></p> <p><b>Abstract:</b> Recent research in cryptocurrencies has considered the effects of the behavior of individuals on the price of cryptocurrencies through actions such as social media usage. However, some celebrities have gone as far as affixing their celebrity to a specific cryptocurrency, becoming a crypto-tastemaker. One such example occurred in April 2021 when Elon Musk claimed via Twitter that "SpaceX is going to put a literal Dogecoin on the literal moon". He later called himself the "Dogefather" as he announced that he would be hosting Saturday Night Live (SNL) on 8 May 2021. By performing sentiment analysis on relevant tweets during the time he was hosting SNL, evidence is found that negative perceptions of Musk's performance led to a decline in the price of Dogecoin, which dropped 23.4% during the time Musk was on air. This shows that cryptocurrencies are affected in real time by the behavior of crypto-tastemakers.</p> <p style="text-align: center;"><a href="#">FAC Exhibit C</a></p>
<p style="text-align: center;"><a href="https://storage.courtlistener.com/recap/gov.uscourts.nysd.581639/gov.uscourts.nysd.581639.9.9.3.pdf">https://storage.courtlistener.com/recap/gov.uscourts.nysd.581639/gov.uscourts.nysd.581639.9.9.3.pdf</a></p> <p style="text-align: center;">Case 1:22-cv-05037-AKH Document 9-3 Filed 09/06/22 Page 1 of 4</p> <h3 style="text-align: center;">The Credibility Cryptocurrency Valuation: Statistical Learning Analysis for Influencer Tweets</h3> <div style="display: flex; justify-content: space-around; font-size: small;"> <div>Haemin Lee Korea Univ. haemin2@korea.ac.kr</div> <div>Youngkee Kim Korea Univ. feliskim@korea.ac.kr</div> <div>Hyunhee Cho Sungkyunkwan Univ. g7746d@g.skku.edu</div> <div>Soyi Jung Hallym Univ. sjung@hallym.ac.kr</div> <div>Joongheon Kim Korea Univ. joongheon@korea.ac.kr</div> </div> <div style="display: flex;"> <div style="flex: 1; font-size: x-small;"> <p><b>Abstract—</b>Cryptocurrency has attracted significant attention. Considering the number of individuals investing in bitcoin, their motivations are comparatively less clear than traditional investment decisions. As of December 2020, the market has continuously increased in cryptocurrency. Especially, the spike of joke Dogecoin shows the weirdness of the modern meme economy with the support of Elon Musk, whom himself appointed as "Dogefather". In this paper, we analysis the impact of tweets by Elon musk and present some statistical analyze with event study.</p> <p><b>Index Terms—</b>Cryptocurrency, Dogecoin, Twitter</p> <p><b>I. INTRODUCTION</b></p> <p>Cryptocurrency has attracted great attention to speculators and investors. Apart from its popularity, with its hyper volatile characteristics (i.e., skyrocketing and sudden fall), it is hard to make investment decisions or predict the price fluctuation. As a sequence, there are many studies on cryptocurrency prediction with financial time-series data [1]–[12]. However, the motivations of many individuals who invest in bitcoin</p> </div> <div style="flex: 1;">  </div> </div> <p style="text-align: center;"><a href="#">FAC Exhibit D</a></p>	

**ADMISSION THAT DOGECOIN WAS LAUNCHED AS A *FOR PROFIT* “NEXT BIG THING” INVESTMENT CONTRACT BELIES SUBSEQUENT REPEATED FALSE CLAIMS THAT DOGECOIN WAS LAUNCHED AS A “JOKE”**

11. During due diligence my office uncovered evidence which conclusively establishes that Dogecoin *was launched as* an investment contract - despite repeated subsequent misleading assertions that it was started as a “joke”.
12. Said evidence is in the form of video statements by the founders *circa* 2018, as well posts on the social media platform “Reddit” *circa* 2020 asserting that Dogecoin was *founded* as the “Next Big Thing” and would make people “richer”:

**“THE NEXT BIG THING”**

▼ True value - an open letter from Billy Markus, co-founder and original creator of Dogecoin

Hi folks! I can't believe this place is over a million members now - back when I was active we had less than 10% of this! So I'd like to introduce myself to many new folks - I am Billy Markus, the original creator of Dogecoin. As you may have heard, it was indeed created for sillies after Jackson Palmer made an flippant tweet about it that *idea being the 'next big thing'* and I threw it together, without any expectation or plan. It took about 3 hours to make, with the bulk of that time making alterations to the client to make the text Comic Sans and some custom graphics and wording for different pieces of the UI.

[FAC Exhibit S<sup>2</sup>](#)  
(external link)

*“I am Billy Markus, the original creator of Dogecoin. As you may have heard, it was indeed created for sillies after Jackson Palmer made an flippant tweet about it **that idea being the 'next big thing'** and I threw it together”*

*“With the recent Dogecoin mania going on, my inbox was being flooded by **people demanding me to do things for them so they would become richer.**”*

<sup>2</sup>See <http://tiny.cc/MarkusAdmission> (external link)

13. The video (screenshot below), which depicts Dogecoin Founder Jackson Palmer *circa* 2018 admitting that Dogecoin was *launched* as a for-profit “Next Big Thing”, can be found at the following external link, at minute 1:35, *to wit*:

Video Available At: <http://tiny.cc/PalmerAdmission> (external link)



14. Notably, the banner above references “**joke**” *in quotes* - since Dogecoin was not launched as a joke - *supra* - the moniker “joke” having been used to **mislead investors, regulators, and this court**.
15. As the FAC makes clear, the moniker “joke” was thus *knowingly* exploited in a misleading manner by Elon Musk and others **to mislead regulators - and this Court** - including at the May 2021 SNL appearance by Elon Musk. [FAC ¶148] See also [FAC ¶41, ¶68, ¶146, ¶147, ¶149-151, ¶174, ¶412-415].

**MUSK LEVERAGED HIS COMPANY SPACEX, AND  
MADE FALSE STATEMENTS, *IN CONNECTION WITH*  
THE DOGECOIN FOUNDER’S “TO THE MOON”  
ADVERTISING CAMPAIGN, SAID SCHEME BEING  
CENTRAL OR PRIMARY IN THE FAC AND SAC**

16. Dogecoin’s founders, who had launched Dogecoin as a for-profit “next big thing” investment contract, *supra*, *ab initio* engaged in a **comprehensive “to the moon” advertising campaign** which suggested **profitability for no other reason than “yes”**.
17. Elon Musk, as the FAC makes clear, then made statements capitalizing on this “to the moon” mantra, leveraging his company SpaceX, and his large Twitter audience, to knowingly make **false claims that Dogecoin would be literally “sent” to the literal moon**. [FAC ¶¶65, ¶81, ¶214 -229, ¶266, ¶417.]
18. These false “to the *literal* moon” statements were ratified - and repeated - by SpaceX representatives, thus “corroborating” a known falsity. [FAC ¶223].
19. To be sure, the FAC includes allegations that crypto currency is “virtual” and cannot be “sent” anywhere, except earth-bound blockchains - and then only as an *entry* in a digital ledger memorializing the “transaction” of a “coin” which does not exist in reality. [FAC ¶25, ¶27-28]

20. Moreover, Elon Musk never did “send” either Dogecoin, or the promised “Doge-1” satellite, to the moon. [FAC ¶¶65, ¶81, ¶214 -229, ¶266, ¶417.]

**LEAD CLASS COUNSEL SPENCER APPROVED A  
THOROUGHLY RESEARCHED FAC, AND HIS  
INTRODUCTION OF INSIDER CLAIMS IN THE SAC WAS  
REASONABLY NOT CENTRAL TO THE SAC**


21. The FAC substantially researched and authored by the undersigned was not frivolous, and was therefore properly executed or approved by lead counsel Evan Spencer.
22. The insider trading allegations in the SAC introduced by lead counsel Spencer were reasonably collateral only, as the SAC had also referenced allegations of wallet ownership by *Musk’s employees*, which originated in the FAC. [FAC ¶¶144, ¶396, ¶409, ¶410], [SAC ¶¶94, ¶95, ¶149, ¶165.]
23. The undersigned had no role in drafting the *new* SAC allegations on insider trading, and did not participate in drafting or researching any portion of the TAC or 4AC, and takes no position with regard to same, except to say that **Elon Musk has knowingly made false statements as set forth in the FAC**, and any *circumstantial* evidence pointing to *his own* wallet ownership can be reasonably alleged “*on information and belief*”.

**NO SERVICE OF RULE 11 NOTICES ON THE  
UNDERSIGNED**

24. The undersigned was not served with Rule 11 notices, which were purportedly served in connection with the TAC and 4AC, neither of which were signed by the undersigned.

25. Moreover, attorney Evan Spencer, Esq., has been lead class counsel throughout since the filing of the complaint to present.

**I, Santos A. Perez, do swear or affirm that the foregoing statements are true. I am aware that if same are willfully false, I may be subject to punishment.**

  
Santos A. Perez, Esq.

Former Class Co-Counsel for Plaintiffs

DATED: October 10, 2024